

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY LEONARD

BOWMAN,

Defendant and Appellant.

A158926

(Humboldt County

Super. Ct. No.

CR995701AS)

“In 2018, the Legislature passed and the Governor signed into law Senate Bill No. 1437 (2017-2018 Reg Sess.) (Senate Bill 1437), legislation that prospectively amended the mens rea requirements for the offense of murder and restricted the circumstances under which a person can be liable for murder under the felony-murder rule or the natural and probable consequences doctrine. (Stats. 2018, ch. 1015.) Senate Bill 1437 also established a procedure permitting certain qualifying persons who were previously convicted of felony murder or murder under the natural and probable consequences doctrine to petition the courts that sentenced them to vacate their murder convictions and obtain resentencing on any remaining counts.” (*People v. Lamoureux* (2019) 42 Cal.App.5th 241, 246 (*Lamoureux*).)

Here, the trial court denied the Penal Code section 1170.95 petition of appellant and defendant Jeffrey Leonard Bowman (Appellant) to have his felony murder conviction vacated; the denial was based on the court's conclusion that Senate Bill 1437 is unconstitutional. Appellant appealed, and the Attorney General submitted an amicus curiae brief arguing Senate Bill 1437 is constitutional. The trial court's ruling is defended on appeal by the District Attorney of Humboldt County (Respondent). Respondent argues Senate Bill 1437 (1) unconstitutionally amends Proposition 7, a voter initiative that increased the punishments for persons convicted of murder (Prop. 7, as approved by voters, Gen. Elec. (Nov. 7, 1978)); (2) unconstitutionally amends Proposition 115, a voter initiative that augmented the list of predicate offenses for first degree felony-murder liability (Prop. 115, as approved by voters, Primary Elec. (June 5, 1990)); (3) deprives crime victims the rights afforded them by the Victims' Bill of Rights Act of 2008 (Prop. 9, as approved by voters, Gen. Elec. (Nov. 4, 2008)); and (4) violates the separation of powers doctrine.

Decisions of the California courts of appeal have uniformly sustained the constitutionality of Senate Bill 1437 and rejected the arguments Respondent presents. In particular, in *Lamoureux, supra*, 42 Cal.App.5th 241, the Fourth District thoughtfully considered and rejected each of the contentions Respondent makes on appeal. Decisions in three other districts have followed *Lamoureux*. (See, e.g., *People v. Bucio* (2020) 48 Cal.App.5th 300 [Second District]; *People v. Superior Court (Ferraro)* (July 7, 2020, C089541) ___ Cal.App.5th ___ [Third District]; *People v. Alaybue* (June 25, 2020, H047221) ___ Cal.App.5th ___ [Sixth District].) We agree with the

conclusions in those decisions that Respondent's contentions are without merit.¹

Given the thorough consideration of Respondent's contentions in numerous published decisions, there is no need to address those contentions further herein. It is sufficient to state that we agree with those courts concluding that Senate Bill 1437 is constitutional.

DISPOSITION

The trial court's order is reversed and the matter is remanded for consideration of Appellant's petition under Penal Code section 1170.95 consistent with this opinion.

¹ Respondent also asserts Senate Bill 1437 is "potentially unconstitutional and unworkable in many other ways," relating to a defendant's constitutional rights. We agree with *Lamoureux's* rejection of such contentions; as the court stated, "the People lack standing to challenge the hearing and remedy provisions of [Penal Code] section 1170.95 based on any alleged infringement on petitioners' constitutional rights." (*Lamoureux, supra*, 42 Cal.App.5th at p. 267.)

SIMONS, J.

We concur.

JONES, P.J.

NEEDHAM, J.

(A158926)